

# EXHIBIT LIST

## EXHIBIT A

Affidavit of Service, Special Process Server

## EXHIBIT B

Sworn Declaration Pursuant To 28 U.S.C.A. § 1746  
James Rosemeyer, Contributions Manager

## EXHIBIT C

Sworn Declaration Pursuant To 28 U.S.C.A. § 1746  
Daniel P. McAnally, Plaintiffs Attorney

# Exhibit A

**Exhibit A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

**08 C 626**  
**SUMMONS IN A CIVIL CASE**

TRUSTEES of the IRON WORKERS TRI-STATE  
WELFARE FUND, MID-AMERICA PENSION FUND, and  
MID-AMERICA SUPPLEMENTAL MONTHLY ANNUITY  
FUND

CASE NUMBER:

V.

ASSIGNED JUDGE:

MAGNUM STEEL ERECTORS, INC.

JUDGE LEINENWEBER  
MAGISTRATE JUDGE MASON

DESIGNATED  
MAGISTRATE JUDGE:

TO: (Name and address of Defendant)

MAGNUM STEEL ERECTORS, INC.  
c/o L. PATRICK POWER  
956 N. FIFTH AVE.  
KANKAKEE, IL 60901

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

DANIEL P. McANALLY  
WHITFIELD & McGANN  
111 E. WACKER DRIVE  
SUITE 2600  
CHICAGO, IL 60601

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**Michael W. Dobbins, Clerk**

*Nadine Shirley*

(By) DEPUTY CLERK

**January 29, 2008**

Date



ClientCaseID: N7583/DPM

CaseID: 176295

Law Firm ID: WHITFIEL



CaseReturnDate: 3/5/08

Affidavit of Special Process Server

## UNITED STATES DISTRICT COURT

I, *Tyson Cailteux*

Case Number 08C626

FIRST DULY SWORN ON OATH STATES THAT I AM OVER 18 YEARS OF AGE AND NOT A PARTY TO THIS SUIT AND IS A REGISTERED EMPLOYEE OF ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION PRIVATE DETECTIVE AGENCY #117-001126 Diligent Detective Agency, LTD. 105 W. 3RD AVENUE, CLIFTON IL 60927.

THAT HE SERVED THE WITHIN SUMMONS AND COMPLAINT  
ON THE WITHIN NAMED DEFENDANT **Magnum Steel Erectors, Inc.**

( ) PERSONAL SERVICE: IN THAT I PERSONALLY DELIVERED THE PROCESS TO THE DEFENDANT.

( ) ABODE/SUBSTITUTE SERVICE:

I SERVED A MEMBER OF HOUSEHOLD 13 YEARS OF AGE OR OLDER AT THE DEFENDANT'S USUAL PLACE OF ABODE AND INFORMED THAT PERSON OF THE CONTENTS THEREOF AND FURTHER MAILED A COPY OF THE SUMMONS OR PROCESS IN A SEALED ENVELOPE WITH POSTAGE PREPAID TO THE DEFENDANT, AT HIS USUAL PLACE OF ABODE WITHIN TWO BUSINESS DAYS OF THE SERVICE.

CORPORATE SERVICE: IN THAT I SERVED THE DEFENDANT CORPORATION BY LEAVING COPY OF THE PROCESS WITHIN THE PERSON LISTED BELOW

( ) UNABLE TO SERVE/NON SERVICE AFFIDAVIT: I WAS UNABLE TO SERVE THE DEFENDANT  
LIST REASON HERE:

Date Of Service: *2-7-08*Time of Service: *15:28*

Date Of Mailing

PERSON SERVED *CHRIS SCHMITZ, OFFICE MANAGER*Age *53* Sex *Female* Race *White* Height *5'7* Build *MEDIUM* Hair *BLONDE*

LOCATION OF SERVICE **956 N Fifth Avenue  
Kankakee, IL, 60901**

Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statement are true and correct, except as to matters therein stated to be on information and belief and such matters the undersigned certifies as aforesaid that he/she verily believes same to be true.

*TC* *2/13/08*  
NAME OF SERVER: DATE:

AGENCY NAME: Diligent Detective Agency, LTD

ADDRESS: 105 W. 3RD AVENUE

CITY: CLIFTON

ST: IL ZIP 60927

PHONE: (815)-694-3332

61264

# Exhibit B

**Exhibit B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

TRUSTEES of the IRON WORKERS )  
TRI-STATE WELFARE FUND et al., )  
 )  
 )  
 )  
Plaintiffs, ) Case No. 08 C 626  
 )  
 )  
 )  
v. )  
 )  
 )  
MAGNUM STEEL ERECTORS, INC., )  
 )  
 )  
Defendant. )

SWORN DECLARATION PURSUANT TO 28 U.S.C.A. § 1746

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David J. Jansen declares as follows:

1. I am the ERISA Contribution Collection Coordinator for the for the Iron Workers' Tri-State Welfare Plan and in such capacity I am authorized to make this Declaration on behalf of the Trust Fund.
2. The Defendant executed an Agreement with the Iron Workers' Union (the "Union") whereby it agreed to be bound by the provisions of a Collective Bargaining Agreement and to all Collective Bargaining Agreements subsequently negotiated.
3. Pursuant to the provisions of the Agreement and the Collective Bargaining Agreements, the Defendant agreed to be bound by the provisions of the Agreements and Declarations of Trust, which created the Plaintiffs' Trust Fund.
4. Pursuant to the provisions of the Collective Bargaining Agreements and Trust Agreement, the Defendant is required to submit monthly reports which list the number of hours worked by its iron worker employees and the Defendant is required to pay contributions based upon the hours listed.

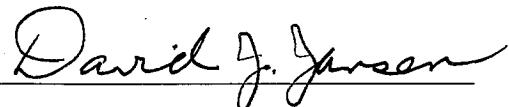
5. The Defendant submitted the contribution reports but failed to submit the ERISA contributions for its iron worker employees. The Defendant also failed to submit reports for January and February 2008 so an average estimate was performed for these two months at \$10,260.10 per month. The total amount owed for these iron worker employees is \$62,709.70 for the months of August 2007 through February 2008.

6. Because of its failure to pay contributions in a timely manner, the Trust Agreement and Collective Bargaining Agreement mandate the assessment of liquidated damages. The liquidated damages calculation was based on the rate set forth in the controlling Trust Agreements, which is 1.5% compounded per month. The amount of liquidated damages owed is \$2,540.92 for the period August 2007 through February 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Declaration is true and correct.

Date: April 1, 2008

Signature:

A handwritten signature in black ink, appearing to read "David J. Jansen", is written over a horizontal line.

**Magnum Steel Erectors**  
**Breakdown of Known Amounts Due the Funds**  
**As of March 13, 2008**

**\*Summary of Known Totals Due Mid-America Tri-State Funds:**

<b>Grand Total Due Tri-State Welfare Fund</b>	<b>\$ 24,865.66</b>
<b>Grand Total Due Mid-America Pension Fund</b>	<b>\$ 19,368.91</b>
<b>Grand Total Due Mid-America SMA Fund</b>	<b>\$ 19,403.25</b>
<b>Grand Total Due Apprentice Training Fund</b>	<b>\$ 1,612.80</b>
<b>Grand Total Due the Funds</b>	<b>\$ 65,250.62</b>

**\*Summary and grand totals do not include attorney and associated costs – the final total will include all costs to the Funds.**

**Magnum Steel Erectors Breakdowns of Amounts Due Funds:****Contributions and/or Contributions Reports Due:****Iron Workers' Local Union # 444SZ****August 2007 (Shorted Funds in remittance received on November 1, 2007)**

Due Tri-State Welfare Fund @ \$ 8.14 per hour	\$ 1,983.68
Due Mid-America Pension Fund @ \$ 6.54 per hour	\$ 1,020.48
<u>Due Mid-America SMA Fund @ \$ 6.55 per hour</u>	<u>\$ 1,026.50</u>
Total Contributions Due for August 2007	\$ 4,030.66
Liquidated Damages @ 1.5%	\$ 362.82
<b>Grand Total for August 2007</b>	<b>\$ 4,393.48</b>

**Iron Workers' Local Union # 444SZ****September 2007 (358.00 regular hours; 0.00 OT hours)**

Due Tri-State Welfare Fund @ \$ 8.14 per hour	\$ 2,914.12
Due Mid-America Pension Fund @ \$ 6.54 per hour	\$ 2,341.32
Due Mid-America SMA Fund @ \$ 6.55 per hour	\$ 2,344.90
<u>Due Apprentice Training Fund @ \$ .60 per hour</u>	<u>\$ 214.80</u>
Total Contributions Due for September 2007	\$ 7,815.14
Liquidated Damages @ 1.5%	\$ 570.00
<b>Grand Total for September 2007</b>	<b>\$ 8,385.14</b>

**Iron Workers' Local Union # 444SZ****October 2007 (328.00 regular hours; 0.00 OT hours)**

Due Tri-State Welfare Fund @ \$ 8.14 per hour	\$ 2,669.92
Due Mid-America Pension Fund @ \$ 6.54 per hour	\$ 2,145.12
Due Mid-America SMA Fund @ \$ 6.55 per hour	\$ 2,148.40
<u>Due Apprentice Training Fund @ \$ .60 per hour</u>	<u>\$ 196.80</u>
Total Contributions Due for October 2007	\$ 7,160.24
Liquidated Damages @ 1.5%	\$ 417.84
<b>Grand Total for October 2007</b>	<b>\$ 7,578.08</b>

**Iron Workers' Local Union # 444SZ****November 2007 (388.00 regular hours; 2.00 OT hours)**

Due Tri-State Welfare Fund @ \$ 8.14 per hour	\$ 3,174.60
Due Mid-America Pension Fund @ \$ 6.54 per hour	\$ 2,550.60
Due Mid-America SMA Fund @ \$ 6.55 per hour	\$ 2,554.50
<u>Due Apprentice Training Fund @ \$ .60 per hour</u>	<u>\$ 234.00</u>
Total Contributions Due for November 2007	\$ 8,513.70
Liquidated Damages @ 1.5%	\$ 372.60
<b>Grand Total for November 2007</b>	<b>\$ 8,886.30</b>

**Magnum Steel Erectors Breakdowns of Amounts Due Funds:****Contributions and/or Contributions Reports Due (Continued):****Iron Workers' Local Union # 444SZ  
December 2007 (672.00 regular hours; 0.00 OT hours)**

Due Tri-State Welfare Fund @ \$ 8.14 per hour	\$ 5,470.08
Due Mid-America Pension Fund @ \$ 6.54 per hour	\$ 4,394.88
Due Mid-America SMA Fund @ \$ 6.55 per hour	\$ 4,401.60
<u>Due Apprentice Training Fund @ \$.60 per hour</u>	<u>\$ 403.20</u>
Total Contributions Due for December 2007	\$ 14,669.76
<u>Liquidated Damages @ 1.5%</u>	<u>\$ 427.98</u>
<b>Grand Total for December 2007</b>	<b>\$ 15,097.74</b>

**Iron Workers' Local Union # 444SZ  
January 2008 (470.00 estimated regular hours; 0.00 OT hours)**

Due Tri-State Welfare Fund @ \$ 8.14 per hour	\$ 3,825.80
Due Mid-America Pension Fund @ \$ 6.54 per hour	\$ 3,073.80
Due Mid-America SMA Fund @ \$ 6.55 per hour	\$ 3,078.50
<u>Due Apprentice Training Fund @ \$.60 per hour</u>	<u>\$ 282.00</u>
Total Contributions Due for January 2008	\$ 10,260.10
<u>Liquidated Damages @ 1.5%</u>	<u>\$ 149.68</u>
<b>Grand Total for January 2008</b>	<b>\$ 10,409.78</b>

**Iron Workers' Local Union # 444SZ  
February 2008 (470.00 estimated regular hours; 0.00 OT hours)**

Due Tri-State Welfare Fund @ \$ 8.14 per hour	\$ 3,825.80
Due Mid-America Pension Fund @ \$ 6.54 per hour	\$ 3,073.80
Due Mid-America SMA Fund @ \$ 6.55 per hour	\$ 3,078.50
<u>Due Apprentice Training Fund @ \$.60 per hour</u>	<u>\$ 282.00</u>
Total Contributions Due for February 2008	\$ 10,260.10
<b>Grand Total for February 2008</b>	<b>\$ 10,260.10</b>

**Liquidated Damages Due:**

Due Mid-America Pension Fund	\$ 80.00
Due Mid-America SMA Fund	\$ 80.00
Due Tri-State Welfare Fund	\$ 80.00

**Attorney Fees:** \$ Unknown**Associated Costs:** \$ Unknown

# Exhibit C

**Exhibit C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

TRUSTEES of the IRON WORKERS )  
TRI-STATE WELFARE FUND et al., )  
 )  
 )  
 )  
Plaintiffs, ) Case No. 08 C 626  
 )  
 )  
 )  
 )  
v. )  
 )  
 )  
 )  
MAGNUM STEEL ERECTORS, INC., )  
 )  
 )  
Defendant. )

SWORN DECLARATION PURSUANT TO 28 U.S.C.A. § 1746

Daniel P. McAnally declares as follows:

1. I am an associate of the law firm of Whitfield & McGann and am licensed to practice law in the State of Illinois and in the U.S. Dist. Court for Northern District of Illinois, Eastern Division.

2. I have personal knowledge of the facts stated herein and if called to testify in this matter, I can competently testify to such facts from my own such knowledge.

3. I have in excess of 13 years experience representing trustees of employee benefit plans, including the prosecution of Federal Court litigation to collect delinquent employer contributions.

4. The Collective Bargaining Agreement and the Trust Agreements under which this action is based provide for the payment of attorneys' fees and costs incurred if the Trust Funds utilize legal counsel to collect unpaid ERISA contributions.

5. I have devoted 11.75 hours in connection with the this case at the rate of \$165.00 per hour. The total attorney fees billings is \$1,938.75.

6. In addition, the filing fee was \$350.00, fees for service of process \$80.00 and LEXIS fee, \$65.00. These costs total \$423.00.

7. I certify that the attached detailed attorney fees and costs totaling \$2,433.75 were necessary and reasonable.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Declaration is true and correct.

Date: April 1, 2008

s/ DANIEL P. McANALLY

Attorney for the Trustees of the Iron Workers' Welfare Fund et al.

4/2/2008  
1:51 PMWHITFIELD, McGANN & KETTERMAN  
Slip Listing

Page

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## Selection Criteria

Case (hand select) Include: IWF.N7583  
 Slip.Classification Open  
 Case (hand select) Include: IWF.N7583  
 Slip.Transaction Ty 1 - 1

Rate Info - identifies rate source and level

Slip ID		ATTORNEY	Units	Rate	Slip Value
		Activity	DNB Time	Rate Info	
		Case	Est. Time	Bill Status	
		Reference	Variance		
351595	TIME	DPM	1.00	165.00	165.00
1/2/2008		Billable	0.00	T@13	
Billed	G:72929 2/4/2008	IWF.N7583	0.00		0.00
Review referral from Trust Funds; prepare database and load information regarding case facts, history and legal strategy.					
Prepare/ Open file for litigation; review corporate status and registered agent information for legal process.					
352392	TIME	CPW			
1/2/2008		Lexis	0.00	165.00	165.00
Billed	G:72929 2/4/2008	IWF.N7583	0.00	A@1	
LEXIS FEE: Search Illinois Secretary of State database for corporate information including registered agent of the corporation for purposes of service; search for related companies; perform asset search of company and principals.					
351596	TIME	DPM	2.00	165.00	330.00
1/3/2008		Billable	0.00	T@13	
Billed	G:72929 2/4/2008	IWF.N7583	0.00		0.00
Prepare summons, complaint, appearance forms and civil cover sheet for Trust Funds' claims and compliance matters pursuant to ERISA Sec. 1132, 1145 and Taft-Hartley Act Sec. 301.					
351597	TIME	DPM	0.25	165.00	41.25
1/3/2008		Billable	0.00	T@13	
Billed	G:72929 2/4/2008	IWF.N7583	0.00		0.00
Telephone conversation with collection coordinator David Jansen regarding status; will hold off filing the lawsuit because the owner promised immediate payment.					
352393	TIME	DPM	0.50	165.00	82.50
1/29/2008		Billable	0.00	T@13	
Billed	G:72929 2/4/2008	IWF.N7583	0.00		0.00
Prepare the complaint, civil cover sheet,					

4/2/2008  
1:52 PMWHITFIELD, McGANN & KETTERMAN  
Slip Listing

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Slip ID		ATTORNEY	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Case	Est. Time	Bill Status	
Description		Reference	Variance		
appearance and summons for electronic filing; file the documents; confirm the court clerk received the documents.					
353755	TIME	DPM	0.50	165.00	82.50
2/22/2008		Billable	0.00	T@13	
Billed	G:73124 3/3/2008	IWF.N7583	0.00		
Review complaint filed at the Federal Court; load information regarding the filing date, case number and assigned judge into the database; review (via the Internet) the judge's standing order regarding pre-trial litigation, motion practice and status hearing dates; update file / database regarding same.					
353754	TIME	DPM	1.00	165.00	165.00
2/26/2008		Billable	0.00	T@13	
Billed	G:73124 3/3/2008	IWF.N7583	0.00		
Prepare correspondence to legal process server Scott Forrest Stern & Associates, Inc. regarding service of the summons and complaint on the defendant; prepare correspondence to collection coordinator David Jansen regarding the filling of the complaint; enclose copy of the summons and complaint; docket follow-up dates for service.					
353846	TIME	DPM	0.50	165.00	82.50
2/28/2008		Billable	0.00	T@13	
Billed	G:73124 3/3/2008	IWF.N7583	0.00		
Review Scott Forrest Stern & Assoc., Inc.'s report on service of the summons and complaint; review process server remarks regarding details of service; review affidavit of service for legality; electronically file the proof of service with the clerk of the U.S. Dist. Court for the Northern Dist. of Illinois; docket follow-up dates for Answer due date.					
353848	TIME	DPM	0.50	165.00	82.50
2/28/2008		Billable	0.00	T@13	
Billed	G:73124 3/3/2008	IWF.N7583	0.00		
Correspondence to collection coordinator David Jansen regarding calculation of liquidated damages and interest pursuant to the terms of the trust agreements and Internal Revenue Code.					

4/2/2008  
1:52 PMWHITFIELD, McGANN & KETTERMAN  
Slip Listing

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Slip ID		ATTORNEY	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Case	Est. Time	Bill Status	
Description		Reference	Variance		
353853	TIME	DPM	0.25	165.00	41.25
	2/28/2008	Billable	0.00	T@13	
Billed	G:73124	IWF.N7583	0.00		
Telephone conversation with collection			0.00		
coordinator David Jansen regarding status of					
the case.					
353847	TIME	DPM	0.25	165.00	41.25
	2/29/2008	Billable	0.00	T@13	
Billed	G:73124	IWF.N7583	0.00		
Review e-mail sent by the U.S. Dist. Court			0.00		
for the Northern Dist. of Illinois regarding					
SUMMONS Returned Executed by Iron					
Workers Tri-State Welfare Fund,					
Mid-America Pension Fund, Mid-America					
Supplemental Monthly Annuity Fund as to					
Magnum Steel Erectors, Inc. on 2/7/2008,					
answer due 2/27/2008. ; download					
documents to the file folder; print document					
and enclose in file.					
354701	TIME	DPM	0.25	165.00	41.25
	3/13/2008	Billable	0.00	T@13	
Billed	G:73305	IWF.N7583	0.00		
Telephone conversation with collection			0.00		
coordinator David Jansen and trust fund					
employee, Spirit Johnson regarding status of					
the litigation, doing as estimate and motion					
for default judgment.					
355291	TIME	DPM	0.25	165.00	41.25
	3/27/2008	Billable	0.00	T@13	
Billed	G:73305	IWF.N7583	0.00		
Telephone conversation with collection			0.00		
coordinator David Jansen regarding status;					
proceeding with our motion for default					
judgment.					
355639	TIME	DPM	3.50	165.00	577.50
	4/1/2008	Billable	0.00	T@13	
WIP		IWF.N7583	0.00		
Review court file to determine if Answer filed;			0.00		
review office file for Answer; confirm Answer					
due dates; review U. S. District Court					
website to verify the date and time that the					
presiding Judge hears motions; prepare					
motion for default judgment pursuant to F.					
Rul. Civ. P. 55 for failure to Answer or					
otherwise plead; prepare affidavit of					
collection coordinator David Jansen;					
correspondence to collection coordinator					
David Jansen regarding execution of the					

4/2/2008  
1:52 PMWHITFIELD, McGANN & KETTERMAN  
Slip Listing

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Slip ID	ATTORNEY	Units	Rate	Slip Value
Dates and Time	Activity	DNB Time	Rate Info	
Posting Status	Case	Est. Time	Bill Status	
Description	Reference	Variance		

affidavit; Review file for all entries for the attorney billings and costs incurred; compare with work performed on the file; prepare attorney fee declaration / affidavit and exhibits; incorporate amounts into the motion and judgment order; prepare the document for electronic filing.

10.75

Grand Total

Billable	<u>10.75</u>	<u>10.75</u>
Unbillable	<u>0.00</u>	<u>0.00</u>
Total	<u>10.75</u>	<u>10.75</u>

Court Appearance  
April 1, 2008

1.0 11.75 0.165 \$1938.75

LEXIS FEE \$65 -

Filing Fee \$350 -

Service Fee \$80 -

Total \$ 2,433.75